

To: Deitz, Randy[Deitz.Randy@epa.gov]; Gartner, Lois[Gartner.Lois@epa.gov]; Thomas, Latosha[Thomas.Latosha@epa.gov]; Thomas, Hattie[Thomas.Hattie@epa.gov]
Cc: Wells, Suzanne[Wells.Suzanne@epa.gov]; Wilbur, Jennifer[Wilbur.Jennifer@epa.gov]; Woolford, James[Woolford.James@epa.gov]
From: Cohen, Nancy
Sent: Wed 2/19/2014 6:45:39 PM
Subject: Re: Wall Street Journal re: West Lake

Looping in Hattie in R7. Thanks, nancy

From: Deitz, Randy
Sent: Wednesday, February 19, 2014 12:30:26 PM
To: Gartner, Lois; Cohen, Nancy; Thomas, Latosha
Cc: Wells, Suzanne; Wilbur, Jennifer; Woolford, James
Subject: RE: Wall Street Journal re: West Lake

OK, great. Folks can ignore the e-mail I just sent. I may revise the response to Q.7 so that we don't need the FOIA exemption number. Thanks everyone!

From: Gartner, Lois
Sent: Wednesday, February 19, 2014 12:24 PM
To: Cohen, Nancy; Deitz, Randy; Thomas, Latosha
Cc: Wells, Suzanne; Wilbur, Jennifer
Subject: FW: Wall Street Journal re: West Lake

All- Please find below the West Lake response. Jim has approved. Please note the highlighted txt below—the Region needs to provide that info.

1. I have been told that the review of the West Lake site done by the National Remedy Review Board (NRRB) was at some point changed from a full review to a consultation regarding the site. Is this correct?

A: Yes.

2. If the review was changed to a consultation, what was the reason for the change? If such a change was made, at whose direction was it made? When was such a change made?

A: Based on NRRB Frequent Questions (on the website), Regions may request an optional NRRB consultation on remedial alternatives at the draft FS scoping stage or any time prior to the draft proposed plan. Region 7 requested that the review be changed to a consultation in May 2012 and OSRTI agreed to the change. The Region requested this consultation because additional sampling and analyses would be needed to address concerns from members of the NRRB and to help inform a future potential draft proposed plan. The NRRB Frequent Questions also indicate that a consultation does not excuse a site from the NRRB review at the draft proposed plan stage if the proposed remedial action meets the NRRB review criteria.

3. If a NRRB review of West Lake was switched to a consultation is this the first instance that such a change has occurred at the NRRB? If not, please cite the other instances where such a change has happened.

A: Yes. The NRRB has conducted five consultations, all since 2009. West Lake is the only consultation that was changed after a NRRB review was begun.

4. Is it true that the report/recommendations from a NRRB review of a site is publicly available and posted on the EPA website?

A: Yes, by the publication of the proposed plan.

5. Is it true that a consultation letter (or other consultation document) regarding a site isn't routinely made public and isn't posted on the EPA website?

A: Yes. The consultation documents are consider internal technical discussions and are not posted.

6. I didn't see any review document listed for West Lake in the Region 7 section of the NRRB webpage. If such a public document exists, I'd like to get a copy.

A: No such public document exists.

7. If the NRRB did a consultation on West Lake, I'd like to get a copy of any consultation letter or consultation document issued by the NRRB regarding the site. If necessary, please consider this a request under the Freedom of Information Act.

A: This document is considered deliberative as the additional studies it recommends are still underway. It was withheld from the documents produced in response to your above-referenced FOIA, pursuant to FOIA Exemption #[fill this in].

8. The response to my previous FOIA request (EPA-R7-2014-002244) included a

privilege log of documents the EPA said were exempt from release. The log refers to several drafts of documents. Were any these drafts related to a board review as opposed to a board consultation? In other words, were any of these drafts related to a board review?

A: No board review has occurred at this time, the Region consulted with the NRRB.

From: Legare, Amy
Sent: Wednesday, February 12, 2014 4:33 PM
To: Wells, Suzanne; Ammon, Doug
Subject: RE: Wall Street Journal re: West Lake

My edits are incorporated below. I tried to use language from the NRRB Q&A Manual.

From: Cohen, Nancy
Sent: Tuesday, February 11, 2014 4:56 PM
To: Wells, Suzanne; Gartner, Lois; Ammon, Doug; Stalcup, Dana; Cooper, DavidE; Legare, Amy
Subject: FW: Wall Street Journal re: West Lake
Importance: High

All: this is what I received from R7 . . .

Thanks, nancy

Nancy Cohen

U.S. EPA OSWER

202.566.0171

From: Thomas, Hattie
Sent: Tuesday, February 11, 2014 4:49 PM
To: Cohen, Nancy; Hull, George
Cc: Tapia, Cecilia; Field, Jeff
Subject: Wall Street Journal
Importance: High

Hi – per our conversation.

R7 program contacts: Cecilia Tapia/Superfund Division Director (913-551-7733) and Jeff Field/Superfund Branch Chief (913-551-7548).

Let me know if you have questions. Thanks! – HLT

Hattie L. Thomas
Acting Director
Office of Public Affairs
EPA Region 7

11201 Renner Boulevard

Lenexa, KS 66219
Ph: 913-551-7762, Fax: 913-551-7066

02/11/2014 DRAFT RESPONSES EMBEDDED IN E-MAIL TEXT BELOW

From: Emshwiller, John <John.Emshwiller@wsj.com>
Sent: Saturday, February 08, 2014 12:46:04 PM
To: Milbourn, Cathy; Thomas, Hattie
Cc: Albano, Emily
Subject: WALL STREET JOURNAL QUESTIONS AND POSSIBLE FOIA DOCUMENT

REQUEST REGARDING WEST LAKE LANDFILL

Hattie and Cathy and Emily,

I have some additional questions and a document request following the receipt of documents under an FOIA request (EPA-R7-2014-002244) I made regarding West Lake.

1. I have been told that the review of the West Lake site done by the National Remedy Review Board (NRRB) was at some point changed from a full review to a consultation regarding the site. Is this correct?

A: Yes.

2. If the review was changed to a consultation, what was the reason for the change? If such a change was made, at whose direction was it made? When was such a change made?

~~A: Optional Language: The formal review process is designed for sites where the Preferred Alternative as outlined in the Proposed Plan exceeds a \$25M threshold. Since the review requested was before the selection of a preferred alternative, it was determined that a consultation would be more appropriate since a Supplemental Feasibility Study (SFS) was presented to the NRRB versus a draft Proposed Plan.~~ Typically, the Board reviews cleanup strategies after the remedial investigation/feasibility study (RI/FS) and before the region releases the proposed plan for comment. If necessary, the Board may review sites at other phases of cleanup, possibly before the FS is completed. Regions may request an optional NRRB consultation on remedial alternatives at the draft FS scoping stage or any time prior to the draft proposed plan. The change was requested by Region 7 Superfund division director in consultation with the OSRTI OD in the summer of 2012. ~~The formal NRRB review will occur once the Region has selected a preferred alternative and a draft Proposed Plan has been developed. An optional consultation will not excuse a site from NRRB review at the proposed plan stage if the proposed remedial action meets the NRRB review criteria.~~

3. If a NRRB review of West Lake was switched to a consultation is this the first instance that such a change has occurred at the NRRB? If not, please cite the other instances where such a change has happened.

A: ~~Need to check with Amy Legare at HQ.~~ Including West Lake, there have been 5 consultations.

4. Is it true that the report/recommendations from a NRRB review of a site is publicly available and posted on the EPA website?

A: Yes, formal reviews by the NRRB of the Regions Preferred Alternative are posted to the NRRB's web page within 30 days of the Board Chair's signature. ~~once they are finalized.~~

5. Is it true that a consultation letter (or other consultation document) regarding a site isn't routinely made public and isn't posted on the EPA website?

A: Yes. However, the document ~~will~~ may be made publicly available by the region after the full NRRB review is complete. At its discretion, taking into account the internal, deliberative nature of the NRRB process.

6. I didn't see any review document listed for West Lake in the Region 7 section of the NRRB webpage. If such a public document exists, I'd like to get a copy.

A: No such public document exists.

7. If the NRRB did a consultation on West Lake, I'd like to get a copy of any consultation letter or consultation document issued by the NRRB regarding the site. If necessary, please consider this a request under the Freedom of Information Act.

A: This document is considered deliberative as the additional studies it recommends are still underway. It was withheld from the documents produced in response to your above-referenced FOIA, pursuant to FOIA Exemption #[fill this in].

8. The response to my previous FOIA request (EPA-R7-2014-002244) included a privilege log of documents the EPA said were exempt from release. The log refers to several drafts of documents. Were any these drafts related to a board review as opposed to a board consultation? In other words, were any of these drafts related to a board review?

A: No board review has occurred at this time, the Region consulted with the NRRB.

If you have any questions, please don't hesitate to contact me. Given that these inquiries are related to a possible Wall Street Journal story, I'd appreciate getting responses as quickly as possible.

Thanks and regards,

John

John Emshwiller

Senior Special Writer

Wall Street Journal

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